HD

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,217	01/02/2004	Keneth K. Cyr	CRNI.111419	6647

46169 7590 09/07/2007

SHOOK, HARDY & BACON L.L.P.
Intellectual Property Department
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

EXAMINER	
SEREBOFF, NEAL	

ART UNIT	PAPER NUMBER
3626	

MAIL DATE	DELIVERY MODE
09/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/750,217	CYR ET AL.	
	Examiner	Art Unit	
	Neal R. Sereboff	3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *09 July 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-30* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-30* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. In the amendment filed 7/9/2007, the following has occurred: Claims 1, 2, 9, 11, 12, 19 and 21 – 30 have been amended. Claims 1 – 30 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claims 1 – 30** are rejected under 35 U.S.C. 102(b) as being anticipated by DeBusk et al., U.S. Patent Number 5,991,728.

4. As per claim 1, DeBusk teaches a system for managing clinically related supply procurement, comprising:

- A first interface to receive patient supply data captured from at least one clinically related site (figure 8), the patient supply data comprising items used and/or consumed during a clinical event (column 9, lines 66 through column 10, line 17);
- A second interface to receive care provider preference data for said clinical event from the at least one clinically related site (column 8, line 1 – 25); and
- An analytic engine, the analytic engine communicating with the first interface and the second interface to aggregate the patient supply data to evaluate comparative clinical supply policies (column 10, lines 49 – 58).

5. As per claim 2, DeBusk teaches the system of claim 1 as described above. DeBusk further teaches the system wherein the patient supply data further comprises at least one of surgical device information, pharmaceutical information, and consumable material information (column 11, lines 17 – 30 where the data includes surgical devices).

6. As per claim 3, DeBusk teaches the system of claim 1 as described above. DeBusk further teaches the system wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (column 11, line 65 through column 12, line 15 where the facility is a hospital).

7. As per claim 4, DeBusk teaches the system of claim 1 as described above. DeBusk further teaches the system wherein the care provider preference data comprises a preference card (column 11, lines 4 – 16).

8. As per claim 5, DeBusk teaches the system of claim 4 as described above. DeBusk further teaches the system wherein the preference card comprises selections for at least one of surgical devices, pharmaceutical selections and consumable material selections (column 11, lines 4 – 29 where the doctor particular surgical tools).

9. As per claim 6, DeBusk teaches the system of claim 1 as described above. DeBusk further teaches the system wherein the analytic reports comprise comparisons between alternative supply selections (column 8, lines 30 – 47).

10. As per claim 7, DeBusk teaches the system of claim 6 as described above. DeBusk further teaches the system wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections (column 8, lines 30 – 47 where the bills are compared).

11. As per claim 8, DeBusk teaches the system of claim 6 as described above. DeBusk further teaches the system wherein the comparisons comprise correspondence ratings between care provider preference data and alternative supply selections (column 18, line 52 through column 19, line 3 where the physician rating is based upon a scale relating to percent usage so that under usage as shown within the example would be a lower rating. The Examiner notes that the detailed description, the original claims and the drawings provide little guidance on what this rating should be. The Applicant's figure 5 and paragraph 37 are the best descriptions).

12. As per claim 9, DeBusk teaches the system of claim 1 as described above. DeBusk further teaches the system wherein the analytic reports comprise reports on the patient supply data broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, vendor information and cost ranges (column 17, line 37 – 51 where the report is by procedure).

13. As per claim 10, DeBusk teaches the system of claim 1 as described above. DeBusk further teaches the system wherein the care provider preference data is updated according to updated clinical supply policies (Bundle Maintenance section or column 21, line 1 through column 22, line 39).

14. As per claim 11, DeBusk teaches a method for managing clinically related supply procurement, comprising:

- Receiving patient supply data captured from at least one clinically related site (figure 8), the patient supply data comprising items used and/or consumed during a clinical event (column 9, lines 66 through column 10, line 17);

- Care provider preference data for said clinical event from the at least one clinically related site (column 8, line 1 – 25);
- Aggregating the patient supply data to evaluate comparative clinical supply policies (figure 1, step 9); and
- Storing the aggregated patient supply data (figure 1, step 9).

15. As per claim 12, DeBusk teaches the method of claim 11 as described above. DeBusk further teaches the method wherein the patient supply data further comprises at least one of surgical device information, pharmaceutical information, and consumable material information (column 11, lines 17 – 30 where the data includes surgical devices).

16. As per claim 13, DeBusk teaches the method of claim 11 as described above. DeBusk further teaches the method wherein the clinically related site comprises at least one of a hospital facility, a research facility and a government facility (column 11, line 65 through column 12, line 15 where the facility is a hospital).

17. As per claim 14, DeBusk teaches the method of claim 11 as described above. DeBusk further teaches the method wherein the care provider preference data comprises a preference card (column 11, lines 4 – 16).

18. As per claim 15, DeBusk teaches the method of claim 14 as described above. DeBusk further teaches the method wherein the preference card comprises selections for at least one of surgical devices, pharmaceutical selections and consumable material selections (column 11, lines 4 – 29 where the doctor particular surgical tools).

19. As per claim 16, DeBusk teaches the method of claim 11 as described above. DeBusk further teaches the method comprising a step of performing comparisons between alternative supply selections (column 8, lines 30 – 47).

20. As per claim 17, DeBusk teaches the method of claim 16 as described above. DeBusk further teaches the method wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections (column 8, lines 30 – 47 where the bills are compared).

21. As per claim 18, DeBusk teaches the method of claim 16 as described above. DeBusk further teaches the method wherein the comparisons comprise correspondence ratings between care provider preference data and alternative supply selections (column 18, line 52 through column 19, line 3 where the physician rating is based upon a scale relating to percent usage so that under usage as shown within the example would be a lower rating. The Examiner notes that the detailed description, the original claims and the drawings provide little guidance on what this rating should be. The Applicant's figure 5 and paragraph 37 are the best descriptions).

22. As per claim 19, DeBusk teaches the method of claim 11 as described above. DeBusk further teaches the method comprising a step of generating reports on the patient supply data broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, vendor information and cost ranges (column 17, line 37 – 51 where the report is by procedure).

23. As per claim 20, DeBusk teaches the method of claim 11 as described above. DeBusk further teaches the method comprising a step of updating the care provider preference data

according to updated clinical supply policies (Bundle Maintenance section or column 21, line 1 through column 22, line 39).

24. As per claim 21, DeBusk teaches one or more computer-readable media having computer-executable instructions embodied thereon for performing a method for generating a clinically related supply policy, the method comprising:

- Receiving patient supply data captured from at least one clinically related site (figure 8), the patient supply data comprising items used and/or consumed during a clinical event (column 9, lines 66 through column 10, line 17);
- Receiving care provider preference data for said clinical event from the at least one clinically related site (column 8, line 1 – 25);
- Aggregating the patient supply data to evaluate comparative clinical supply policies (figure 1, step 9); and
- Storing the aggregated patient supply data (figure 1, step 9).

25. As per claim 22, DeBusk teaches the one or more computer-readable media of claim 21 as described above. DeBusk further teaches the one or more computer-readable media wherein the patient supply data further comprises at least one of surgical device information, pharmaceutical information, and consumable material information (column 11, lines 17 – 30 where the data includes surgical devices).

26. As per claim 23, DeBusk teaches the one or more computer-readable media of claim 21 as described above. DeBusk further teaches the one or more computer-readable media wherein the clinically related site comprises at least one of a hospital facility, a research facility and a

government facility (column 11, line 65 through column 12, line 15 where the facility is a hospital).

27. As per claim 24, DeBusk teaches the one or more computer-readable media of claim 21 as described above. DeBusk further teaches the one or more computer-readable media wherein the care provider preference data comprises a preference card (column 11, lines 4 – 16).

28. As per claim 25, DeBusk teaches the one or more computer-readable media of claim 24 as described above. DeBusk further teaches the one or more computer-readable media wherein the preference card comprises selections for at least one of surgical devices, pharmaceutical selections and consumable material selections (column 11, lines 4 – 29 where the doctor particular surgical tools).

29. As per claim 26, DeBusk teaches the one or more computer-readable media of claim 21 as described above. DeBusk further teaches the one or more computer-readable media wherein the method further comprises performing comparisons between alternative supply selections (column 8, lines 30 – 47).

30. As per claim 27, DeBusk teaches the one or more computer-readable media of claim 26 as described above. DeBusk further teaches the one or more computer-readable media wherein the comparisons comprise volumetric pricing information as a function of alternative supply selections (column 8, lines 30 – 47 where the bills are compared).

31. As per claim 28, DeBusk teaches the one or more computer-readable media of claim 26 as described above. DeBusk further teaches the one or more computer-readable media wherein the comparisons comprise correspondence ratings between care provider preference data and alternative supply selections (column 18, line 52 through column 19, line 3 where the physician

rating is based upon a scale relating to percent usage so that under usage as shown within the example would be a lower rating. The Examiner notes that the detailed description, the original claims and the drawings provide little guidance on what this rating should be. The Applicant's figure 5 and paragraph 37 are the best descriptions).

32. As per claim 29, DeBusk teaches the one or more computer-readable media of claim 21 as described above. DeBusk further teaches the one or more computer-readable media wherein the method further comprises generating reports on the patient supply data broken down according to at least one of clinical procedure type, clinical department, patient demographic categories, vendor information and cost ranges (column 17, line 37 – 51 where the report is by procedure).

33. As per claim 30, DeBusk teaches the one or more computer-readable media of claim 21 as described above. DeBusk further teaches the one or more computer-readable media wherein the method further comprises updating the care provider preference data according to updated clinical supply policies (Bundle Maintenance section or column 21, line 1 through column 22, line 39).

Response to Arguments

34. Applicant's arguments with respect to claims 1 – 30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

35. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neal R. Sereboff whose telephone number is (571) 270-1373. The examiner can normally be reached on Mon thru Thur from 7:30am to 5pm, with 1st Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (571) 272-6776. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/NRS/
8/31/2007

JEFFREY A. SMITH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600